

RFCA Stakeholder Focus Group

November 29, 2000

Meeting Minutes

INTRODUCTION AND ADMINISTRATIVE NOTES

Reed Hodgins began the meeting explaining the layout of the meeting room - the open square table setup is for those who wished to join the conversation; those who attended the meeting to answer technical questions or to observe were seated behind and around the square.

A participants list for the November 29, 2000 Rocky Flats Clean-up Agreement (RFCA) Stakeholder Focus Group meeting is included in this report as Appendix A.

Reed reviewed the Focus Group purpose.

Reed went over the meeting rules and agenda.

The November 8, 2000 RFCA Stakeholder Focus Group meeting minutes were reviewed. It was noted that there was a discussion of ARARs at the end of the meeting which was not included in the minutes. The minutes will be revised and reissued to the RFCA Focus Group website at <http://www.rfets.gov/>.

David Abelson suggested that the technical sessions and main Focus Group sessions be combined. It appears that policy-related discussions are occurring naturally in the technical sessions. David suggested that if this is to continue, the umbrella of the main session should be extended to cover the entire discussion. This issue was discussed among the stakeholders and it was decided that the Group would have a combined meeting running from 3:00 - 6:30 p.m. on each meeting day.

Tim Rehder suggested that there are certain issues that are very technical by nature that only a few people will be interested in. We could put those issues at the end of the meetings.

It was noted that there needs to be a forum for answering technical questions at the level of detail that has been served by the technical sessions. The Focus Group agreed to ensure that time will be provided for technical questions / answer sessions.

It was suggested that the first portion of the meeting be set aside for open discussion that may be technical or policy in nature.

1/12

RFCA PROJECT PEER REVIEW PROCESS UPDATE

Mary Harlow, City of Westminster, presented an update to the Group on the progress in designing the peer review process for the RFCA agencies' review of the interim Radioactive Soil Action Levels (RSALs) for Rocky Flats.

The ad hoc working group is making great progress toward getting our peer review team in place. They met this week and prepared a list of candidate peer reviewers. The U.S. Department of Energy (DOE) is putting together their list of possible peer reviewers which should be provided to the working group on November 30, 2000. There will then be a conference call scheduled for Friday (December 1, 2000) to select the pool of peer reviewers. The group will then interview the candidate peer reviewers and make final selections based on their interest and availability.

A question arose concerning peer review for Task 2, "Model Evaluation." The working group would like input from the full Focus Group on the need for a peer review of Task 2, the scope of such a review, the number of peer reviewers needed, and recommended candidates. Mary asked for time on the next Focus Group agenda to discuss peer review of Task 2.

Ken Korkia, Rocky Flats Citizens Advisory Board, gave a presentation on a proposed revision of the RSAL review schedule to accommodate peer review (Appendix B). We moved back some dates that we moved back to accommodate the peer review process.

The peer reviews for Task 1 and Task 2 follow a similar path because they both have an original deadline of February 15, 2001. The working group is proposing to move both those deadlines to March 15, 2001 to help accommodate the peer review process. Written comments will be obtained from the peer reviewers and transmitted to Focus Group for initial discussion at the January 31, 2001 Focus Group meeting. At the same time, the RFCA agencies will be addressing the comments and providing written responses. The agencies' responses will also be discussed at the February 28, 2001 Focus Group meeting, following which a final peer review report will be prepared and submitted to the agencies by March 15, 2001.

The peer review for Task 3, "Parameter Evaluation," will be a more involved process. The 1st draft of the Parameter Evaluation report is due to the Focus Group on January 26, 2001. The Focus Group should decide whether to immediately send the report to peer review, or discuss the report and provide scope and priority direction to the peer reviewers. Written comments will be due back from the peer reviewers by March 12, 2001, with a Focus Group discussion on the comments at its March 14, 2001 meeting.

April 6, 2001 is the due date for the written response from DOE and the regulators concerning the peer review comments, as well as their delivery of the 2nd draft of the task. Those will arrive concurrently and the written comments plus the next draft of the Task 3 report will then go out to the peer reviewers again. The second round of peer review comments will be due on April 23, 2001, with Focus Group discussion on April 25, 2001. The agencies' responses to the second round of peer review comments will be due on May 3, 2001, with Focus Group discussion at its May 9, 2001 meeting. The final peer review report will be issued the following week.

The final activity that the working group feels is important for peer review is the draft RSAL document. The working group is proposing that the overall RSAL Review schedule be extended somewhat to accommodate the peer review process. The RFCA agencies have agreed to issue an initial draft of the report to the Focus Group around May 23, 2001, before it actually goes out for formal public comment period. The Focus Group could discuss the draft report, determine the peer review scope and priorities, and transmit the initial draft to the peer reviewers. The peer reviewers could respond with written comments during July, 2001, while the formal public comment period is underway. The comments could be discussed and a peer review report issued by the end of the public comment period.

The Focus Group then discussed the peer review process.

Steve Gunderson, State of Colorado expressed concern about the amount of work to be accomplished within the aggressive schedule, especially for development of the parameter evaluation report. The group agreed to continue looking at the schedule as the peer review process proceeds.

The working group invited input from all Focus Group members on the scope of the peer review. The peer reviewers for Task 1 will be chosen shortly.

Mary asked the group to consider answers to 3 questions for Task 2:

1. Do we need peer reviewers for Task 2?
2. How many peer reviewers do we need for Task 2, if we need peer reviewers?
3. What are the questions we need to have answered?

For Task 3, the working group asked for a discussion among the full group to identify which areas are most important to have peer reviewed and what type of expertise should be included in the peer review panel. Names of candidate peer reviewers were solicited from the Focus Group.

RSALS REGULATORY FRAMEWORK DISCUSSION

Reed Hodgkin introduced the discussion by reviewing the discussion to date. A draft report on the Regulatory Framework for the RSALs was issued to the Focus Group on September 20. A Focus Group discussion was begun at the November 8, 2000 meeting. At that time, the RFCA agencies identified their goals for the discussion:

DOE:

- Feedback on specific elements of the regulatory analysis
- Points of clarification
- Are we on track? Did we bring the discussion home?
- Were there key areas that you're aware of that we failed to address?
- Next draft is 1/3/01. What do we need to know to make it better?

CDPHE

- Are we addressing the right issues in this draft?
- Have we failed to cover some?
- We have to examine the feasibility of cleanup to protect an unrestricted suburban resident scenario.
- If there are errors in the draft, we need to identify where they are, what they are, and why they are wrong.

EPA

- Our needs are covered above - nothing to add.

Reed summarized the Focus Group objective: to calibrate the agencies so that Draft 2 of the Regulatory Framework report is much more on target than it would be without community input.

The Focus Group posed a series of questions to the RFCA agencies at the November 8, 2000 meeting. Dan Miller, State of Colorado, responded to those questions in a written report which was distributed at the November 29, 2000 meeting (Appendix C). The discussion at the November 29, 2000 meeting focused on the answers to those questions. Because the Focus Group had not seen the document before the meeting, Dan

summarized his answer to each question. This was followed by an open group forum on the issue.

Following is a summary of the discussion:

Question 1: What is the Distinction Between Applicable, Relevant, and Appropriate?

Q: Can you take portions of an ARAR and apply it to a particular cleanup?

A: Yes. We're doing it now.

Q: What is the relationship between the RSAL Regulatory Framework report and the report issued by Dan Miller?

A: Dan Miller's document answers the specific questions that the Focus Group had at the November 8, 2000 meeting. These answers and our discussions will help in the second draft of the Regulatory Framework report.

Q: I'm still confused about how ARARs overlay and underlie CERCLA law. Is it fair to say that the most restrictive requirement would be applied?

A: As a hypothetical example, let's say there was one set of maximum concentration limit of 5 parts per billion for TCE and another is 10 ppb for TCE from different regulatory programs. If you determined that they were both either applicable or relevant and appropriate, you would have to meet the more stringent of the requirements. It should be noted that determining whether a requirement is relevant and appropriate involves a certain amount of discretion.

Q: So, adding additional ARARs to the regulatory framework can only result in a more restrictive cleanup, you can't use ARARs to move toward a less restrictive cleanup.

A: That's true.

C: That's a very important point. A lot of people are using the NRC, we don't want to use the NRC because it's less restrictive. We're only going to use the parts of the NRC that are more restrictive.

A: You have to look at it on a case-by-case basis. We'll get into it.

C: We have several environmental statutes and regulatory schemes that already supply ARARs that are incorporated into decision documents for cleanup at Rocky Flats. This is not new. We already have the ARARs under the Hazardous Substance Act, under the Clean Air Act, etc.

- A: Under CERCLA, the remedies must both be protective and meet ARARs. If meeting an ARAR does not result in a protective remedy under CERCLA, more must be done.
- C: A good example of this situation is the water standard. The NRC rule is less restrictive than the existing State water standard.
- A: That's an example of two different ARARs; you choose the more stringent.
- Q: Don't we need to know what all the ARARs are before we can evaluate the interrelations and which are to be applied?
- A: We do have a master list of ARARs that EPA has compiled for all the remedies at the site. That's currently a document entitled the "Implementation Guidance Document." The Agencies will provide copies..
- Q: Which regulation is the ARAR for Rocky Flats – the NRC rule or the equivalent State rule?
- A: It's the State's rule.
- Q: Does the State then have parameters / guidance, something that differs from what the NRC rule is, that would affect the applicability or the implementation of the ARAR at RFETS?
- A: There are some differences between the NRC regulation and the State regulation. We need to go see why we didn't adopt exactly the same rule, if there was any discussion of why they were different. There is no State implementing guidance.
- Q: What is it about the State rule that makes it more appropriate or relevant?
- A: I don't know how it works under EPA, but under the Federal Hazardous Waste Law, when we adopt a State rule, the Federal rule goes away, so there's only one rule. If that's the case for the State radiation regulations in this State, then there really isn't any Federal regulation that applies here, so you would use the State rule.

Question 2: Is there hierarchy among applicable, relevant, and appropriate?

- C: The answer is no, once you've determined a regulation to either be applicable or relevant and appropriate, the cleanup has to meet the requirement. The applicable requirements don't get any greater or lesser weight than relevant and appropriate requirements.

Question 3: : How do the agencies interpret the NRC / State decommissioning rule?

- C: The text of the state rule has been provided as part of the written response.
- Q: Does ALARA contemplate actions other than source removal? For instance, capping an area--does that comply with ALARA? You could have unrestricted use, but it's unrestricted with a cap over an area of contamination.
- A: EPA doesn't believe that you could release an area as unrestricted if an engineered control is in place.
- Q: What's the difference between maximum exposed individual and average member of the critical group?
- A: There's an answer in the NRC rule. The definition states, "Critical group means group or individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances."
- Q: Does that mean a wildlife refuge worker?
- A: Yes.
- Q: Please explain, "Please note that at Rocky Flats, use restrictions may nonetheless be required for purposes other than limiting dose."
- A: For instance, if the entire site was cleaned up sufficiently to limit doses below thresholds, but plutonium was still present at low levels in the soil, you might want to restrict disturbance of the soil to avoid release of the contamination.
- A: Another example is surface water protection. We might need to place restrictions to ensure compliance with the water standard, even though doses / risks are low enough for unrestricted use.
- C: There is no example of institution controls that have lasted for any length of time.
- C: This process needs to include the consideration of the impermanence of institution-engineered controls and deal with that in some way.
- C: We definitely have to seriously evaluate the limited technical and institutional abilities that are available to deal with the contamination problems that we face in deciding what is an appropriate ?

- C: The DOE has started to look at long-term stewardship in this very serious context, that's where a lot of like institutional controls and things like that will probably be addressed. Long-term stewardship needs to be included in your remedy selection.
- C: The ALARA concept in the context of cleaning up a site helps to choose among alternatives. It's very similar to the CERCLA alternatives analysis.
- Q: It seems that the question of unrestricted use could come up in two places: 1) how does it factor into the setting RSAL? And 2) could it come up in the ALARA analysis?
- A: The RSAL is the floor - the starting point for cleanup. ALARA may be used to investigate the practicability of cleaning up to an unrestricted use for each individual cleanup site.
- Q: If you're looking at unrestricted use, where do you determine what the potential reasonable future uses are?
- A: The NRC guidance suggests the rural residential scenario. We could consider that. We could also consider the residential and land use development patterns in the Denver metropolitan area and, if it were to be developed, what would it most likely be developed as. It's more likely to be a suburban development than rural residential, but we can evaluate different scenarios.
- Q: What about action levels for surface soils and subsurface soils? Can subsurface contamination or groundwater contamination drive cleanup?
- A: Take the 903 Pad. We have an RSAL based on a wildlife refuge worker as a floor. Then we have two issues we have to deal with. One of them is protection of the surface water standard, the other one is ALARA. ALARA, under this ARAR, is a driver to try to see if we can clean up to an unrestricted use. In that issue, I don't see anything about the subsurface driving that.
- Q: The viability of institutional controls over a 1,000 year time frame should be considered.
- A: The decommissioning rule says that if it's not reasonable to clean it up to 25 mrem assuming unrestricted use, that you can include use restrictions as part of your cleanup, but your overall cleanup still has to meet 25 mrem and you have to analyze what happens if your use restrictions fail, you can't go beyond 100 mrem. It requires consideration of the potential of the institutional control. Similarly, in the CERCLA process, you have to consider the long-term

effectiveness of the remedy in evaluating what the remedial action will be. We may find it difficult to maintain institutional controls for 1,000 years and we have to weigh that difficulty against the additional remediation that would be required to allow an unrestricted use.

Q: Will there be a definition of ALARA and what constitutes an ALARA?

A: I think that's an important thing that this Focus Group has to develop; some kind of process as to how we're going to look at ALARA. We need to have it built before the IM / IRA for the 903 Pad is put together; within the next year.

Q: Will the state ARARs apply to waste landfills?

A: Yes. But they'll be under our hazardous waste laws, not our solid waste laws.

The Focus Group interrupted it's discussion because of time constraints and agreed that more time was needed to continue and conclude its comments.

TOPICS FOR UPCOMING MEETINGS

The Focus Group agreed to follow the revised topics schedule presented by the Peer Review working group.

At the next meeting (December 13, 2000) the Focus Group will conclude the Regulatory Framework discussion and begin its discussion on the Task 2 report - "Model Evaluation." The "New Science" discussion will be moved to the January 3, 2001 meeting.

The members of the Focus Group agreed to propose additional regulatory scenarios (in addition to the ones presented in the Regulatory Framework report). The group agreed to submit any proposed scenarios to AlphaTRAC, Inc. by noon on December 6, 2000 for inclusion in the next packet.

ADJOURNMENT

The meeting was adjourned at 6:30 p.m.

**RFCA Stakeholder Focus Group
November 29, 2000
Meeting Minutes**

**Appendix A
Participants List**

10

**RFCA Stakeholder Focus Group
November 29, 2000
Meeting Minutes**

**Appendix B
Ken Korkia: RSAL Review Schedule**

**RFCA Stakeholder Focus Group
November 29, 2000
Meeting Minutes**

**Appendix C
Dan Miller: Response to Questions Presented at 11/8/00
Meeting**